

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THE UNITED STATES OF AMERICA, *ex rel.*
JULIE LONG,

Plaintiffs,

v.

JANSSEN BIOTECH, INC.,

Defendant.

Civil Action No. 16-CV-12182-FDS

**MEMORANDUM OF LAW IN SUPPORT OF JOINT MOTION
FOR EXTENSION OF PHASE ONE DISCOVERY DEADLINE**

Plaintiff-Relator Julie Long (“Relator”) and Defendant Janssen Biotech, Inc. (“Janssen”) jointly request that the Court extend the deadline for the completion of Phase One fact discovery from September 30, 2024 to December 30, 2024 and extend all subsequent existing deadlines in a corresponding manner to allow for the resolution of outstanding discovery issues.

On May 14, 2024, the Court issued a tentative case schedule ordering that Phase One fact discovery be completed by September 30, 2024. ECF No. 444. The Court entered a tentative schedule because it recognized the scope of discovery may be impacted by an interlocutory appeal pending before the U.S. Court of Appeals for the First Circuit concerning the appropriate standard for causation. The Court of Appeals heard oral argument in that matter on July 22, 2024 but has not yet issued a decision.

Despite the uncertainty in the causation standard, the parties have been proceeding with fact discovery expeditiously. To date, they have taken a total of 17 depositions, including the deposition of Relator, responded to over 40 interrogatories, and produced more than 3.4 million

pages of documents. They are nearing the end of their Phase One fact discovery efforts (other than third-party causation discovery) and beginning to turn to experts.

However, before moving on to expert disclosures and discovery, the parties have a few outstanding fact discovery tasks that require additional time to complete.

First, Relator intends to take three fact depositions (out of the twenty depositions allotted by the Court). She is working on scheduling the depositions. Likewise, Janssen needs to take discovery of two third-party witnesses. Janssen served subpoenas for documents and testimony on these witnesses, and it is in the process of coordinating with the witnesses and/or their counsel concerning the subpoenas.

Second, Relator needs to take the Rule 30(b)(6) deposition of Defendant, which is the subject of Janssen's pending Motion for a Protective Order Concerning Relator's 30(b)(6) Deposition Notice (ECF No. 450).

Third, the parties are awaiting the Court's decision concerning Relator's Motion for *In Camera* Review of Documents Withheld on the Basis of Attorney-Client Privilege (ECF No. 445).

In light of the above, the parties request that the deadline for fact discovery be extended by 91 days and all subsequent deadlines be extended correspondingly, which would amend the case schedule to be as follows:

- Phase One fact discovery, other than third-party causation discovery, shall be completed by **December 30, 2024**.
- If Relator intends to call any trial experts whose testimony does not depend on the resolution of the causation standard issue, Relator shall designate such experts and make the disclosures required by Fed. R. Civ. P. 26(a)(2) by **January 27, 2025**.
- Any such experts disclosed by Relator shall be deposed by **March 3, 2025**.

- If Defendant intends to call any trial experts in response to such experts, Defendant shall designate such experts and make the disclosures required by Fed. R. Civ. P. 26(a)(2) by **March 24, 2025**.
- Any such experts disclosed by Defendant shall be deposed by **April 28, 2025**.

Courts have “broad discretion to allow motions to extend deadlines.” *Gouin v. Nolan Assocs., LLC*, 325 F.R.D. 521, 524 (D. Mass. 2017) (internal quotation marks and citation omitted). Deadlines in a court’s scheduling order may be extended upon a showing of good cause for the requested extension. *See id.*; Fed. R. Civ. P. 16(b)(4). Because the discovery items described above cannot be completed in the limited time allotted by the current schedule, there is good cause for the requested extension.

For the foregoing reasons, the parties respectfully request that the Court extend the deadline for the completion of Phase One fact discovery and the other case deadlines as requested above.

Dated: September 18, 2024

/s/ Jason C. Raofield

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CERTIFICATE OF SERVICE

I hereby certify on this 18th day of September, 2024, that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/ Jason C. Raofield

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